App. F. IX-4

1941. (Cb)

File No. 133-41.

Serial Nos. 1-2

Previous References.
Cb 136-39 (1-4 & 6)

Later References.
Cb 292-41 (1-2)
Cb 185-42 (1)
Cb 198-42 & 61-4.
Cb 40-44 (1-2)

Contains a Sealed Cover

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Civ only

Part B for Feb 42

SUBJECT.

Continuance of the term of appointment of the Temporary Judges of the High Court

Order No P 3746-7 of 14.2.42

To

Registrar H.C
Comptroller through F.D

Accords Sanction to the Continuance of the appointment of two Addl Judges of the High Court for a further period of one year from 15.2.1942 as also the temporary Staff referred to above

C. G. Vajravelu
22.5.42

1)

General and Revenue Secretariat | C/5 File No. /33 of 194/. | [App. F. III—2

Serial No. 1

From

The Registrar High Court

Roc No 752 Dt 16.12.1941

Recommends the extension of the term of the appointments of the two temporary Judges of the High Court for a further period of two years from 15th February 1942 along with the temporary establishment working under them.

Under the existing orders, the term of appointment of the two temporary Judges of the High Court expires on 14-2-1942.

2) The Chief Justice has recommended the extension of the terms of appointment of the two temporary Judges for a further period of 2 years from 15-2-1942

Provision on both the accounts (Judges & the establishment) has been made in the Budget of the Judicial Dept for 1941-42 only upto 15-2-1942 and the High Court have not indicated any source from which the extra cost involved in their proposal can be met during the remaining

For A
(C/5 136-39-3)

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

Continuance of the Temporary Judges
3358 of the High Court

Cts File No. 133 of 1941. | General and Revenue Secretariat.

Serial No. 1

period of the year 1941-42. (X) | (X) 3½ months (from 15.2.42 to 1.6.42)

It is for orders as to whether the extra (X) | (X) Rs 12,355/
cost may be met by reappropriation from | at Rs 3530/- per
the sanctioned grants of the dept if | month for 3½ months
possible. An additional grant will have | (from 15-2-1942 to 1.6.42)
to be obtained in case it is not
found possible to meet it by reappropriation.

2) Submitted with references for orders
[The Financial Secretary may be consulted]

GOVT. LAW DEPT. 18 DEC. 1941 GOVT OF MYSORE

Law Secretary) 3 18/12/41 Council Matter

Fin Secy) 6 18/12/41 Hon 2 18/12/41 3 18/12/41

GOVT. OF MYSORE C.O.No. 3536 18 DEC. 1941

3) Under present conditions, there is imperative need for economy in all possible directions. In asking for the continuance of the two Judges for two more years, the High Court have assumed that the additional number of regular and second appeals during the next two years will be at the level of the last two years, viz., 323 and 791 respectively. The large increase in the number of second appeals from 1936-37 is apparently mainly due to more prompt disposal of works

P.T.O.

Continuance of the 3356 F (3)
of the High Court

General and Revenue Secretariat | File No. | of 194 . | [App. F. III—2

Serial No.

JAN 13 1942
No. 7151

3576

DEWAN'S OFFICE
3. 1.1942
NO. 5714

in original courts and also of appeals in District Courts and Subordinate Judges' Courts, and the High Court in 1939 expected that the sudden flood of second appeals would abate after 2 or 3 years (from 1939).

The additional Judges may be continued only for one year or till the end of June 1943 for the present, even if it is held that their continuance is found to be absolutely necessary or quite indispensable on administrative grounds.

9.1.42

8) The proposal of the High Court may be sanctioned.

Dewan ~~Minister~~ ~~Finance~~.)

3/1/42.

3/1/42

9)

6/1/42

DEWAN'S OFFICE
9 1 1942
NO. 5936

10) This is Council matter and may be disposed of by circulation.

Dewan)

9-1-42

11) The Chief Justice had previously discussed this with me ~~& Hon'ble~~ and has seen this proposal as the result of discussion.

The proposal may be sanctioned.

9-1-42

~~Minister for Finance~~
Travancore)

9-1-42

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

12) 11/1/42

19/1/42

For Disposal at a meeting.

No. C. 668

0 194 1-42

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Subject

Proposal to sanction the extension of the term of appointment of the two temporary Judges of the High Court for a further period of two years from 15th February 1942.

Circulated to the Council of Ministers.

By Order,

Musaeus Jal

27th January 1942.

Chief Secretary to Government.

4222/27.1.42 **Minister for Finance and Revenue.**

16) Kll

7771/6.2.42 **Minister for Law.**

17) 6-2-42

4092/29.1.42 **Minister for Education.**

18) JHJ 29

4574 **Minister for Local Self-Government and Public Health.**

2.2.42

Does this proposal involve the question of extension of the Services of Justice Soosaithasan Iyer & after superannuation.

V.G.

6.2.42

CB

The L.S.G. Minister's further comments in the matter is placed in a sealed cover.

6/2

10/2

Extract from the L.S.G. Minister's Minute dated 9th February 1942 in the file re: proposal to sanction the extension of the term of appointment of the two temporary Judges of the High Court for a further period of two years from 15th February 1942.

X X X

The Registrar's letter dated the 16th December 1941 discloses a disquieting feature as regards the position of litigation in Mysore State when it is said "that in proportion to population the number of appeals filed in the High Court of Mysore is considerably larger than the number filed in the High Court at Madras." It is explained, however, that in a State like Mysore where commerce and industries are developing the number of cases is high and justifies in a way the appointment of six Judges in the High Court. In my opinion, the cases arising out of industries and commerce have not certainly contributed to the enormous increase of cases as compared with Madras. So far no serious attempt has been made to remedy the position disclosed in the above statement as regards the litigious spirit. Apart from the fact that the ordinary litigant has been put to great expenditure by his going to the High Court frequently, the expenditure incurred in the High Court on account of the increased number of Judges, establishment, etc., would impose heavy burden on the revenues of the State. The increase in the number of appeals to the High Court in the recent years is mainly due to the rule insisting on the disposal of cases in the lower Courts within

WD 04155—GPB—55,000—23-10-41

one year of their institutions. The attempts for prompt disposal has brought in their wake a feeling in the public mind that proper justice has not been meted out in the Lower Courts and this explains in a way the marked increase in the number of appeals instituted in the High Court.

At the time of making the recommendation for the appointment of the two temporary Judges, the High Court expected that the 920 second appeals then pending would be disposed of by the temporary Judges in two years and that there would be no occasion for their continuance at the end of the period. But the statistics disclose poor disposals. The position has changed and the High Court seems to make out a case for the permanent increase of the temporary Judges from 4 to 6. This would certainly not be justified from the point of view of the total number of cases disposed of from the year 1935-36 and of the unnecessary expenditure involved thereby.

Though the number of Judges has been increased, there has not been proportionate increase in the disposal of cases as is evident from the statistics of cases between the years 1935-36 and 1939-40. This is borne out from the Administration Reports of the High Court. This point has to be investigated into.

Years	Disposals	18½ applications filed.	Second applications	4 8 months were disposed of	temporary appointments
34 - 35	1314	118	288		
35 - 36	1157	162	256		21.1.1938 -
36 - 37	1361	122	403	two temporary posts	
37 - 38	1077	139	329	were appointed 5-2-40	
38 - 39	1189	128	331	four months	
39 - 40	1118	169	348	expiry 1939 - end of year	
40 - 41			267	1940. for fourteen months	

e668 (9)

Extract from the Proceedings of the 14th *Meeting of the Council of Ministers held at Bangalore on* 10th February 1942. *194*

3. Subject. -

Proposal to sanction the extension of the term of appointment of the two temporary Judges of the High Court for a further period of two years from 15th February 1942.

19)

OPINION OF THE COUNCIL.

The period of the appointment of two temporary Judges of the High Court may be extended for a period of one year from 15th February 1942.

Note.-

The question of dealing with the arrears expeditiously may be examined separately.

....

(Signed) N. MADHAVA RAU,

Dewan of Mysore.

Law Secretary
with compliments)

12/2

12/2/42

12/2/42.

"EXTRACT"

12/2

Chief Secretary to Government.

EXPRESS

ISSUED.

RAJAMANTRAPRAVINA MADHAVARAO

MYSORE DEWAN.

CARE SIR JOSEPH BHORE

BHOPAL

HIGH COURT TEMPORARY JUDGES AND LAW SECRETARY PERIOD EXPIRE FOURTEENTH STOP KINDLY COMMUNICATE MAHARAJA'S ORDERS, extending period 3 months or as the case may be

CHISEC

CHIEF SECRETARY TO GOVT.

C.R. No.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

1-6

1130

XLF BHOPAL A 13 35 CHISEC BANGALORE

YOUR TELEGRAM TWELFTH ORDERS MAY BE ISSUED EXTENDING TERM OF TEMPORARY JUDGES AND LAW SECRETARY ALSO ABOUT WADIAS APPOINTMENT HUSSECS REGISTERED LETTERS ADDRSD TO ME BY NAME MAY REMAIN UNOPENED. MADHAVARAU

BY 42 12/22 SH

The sequence of entries at the beginning of this telegram is—class of telegram, time handed in, serial number (in the case of foreign telegrams only), office of origin, date, service instructions (if any) and number of words.

This form must accompany any enquiry respecting this telegram.

MGIPAh.—1971—16-9-41—10,500.

C.R. No.

EXPRESS.
TELEGRAM.

ISSUED.

RAJAMANTRAPRAVINA MALHAVARAU

MYSORE DEWAN

CARE SIR JOSEPH BHORE

BHOPAL.

HIGH COURT TEMPORARY JUDGES AND LAW SECRETARY PERIOD EXPIRE FOURTEENTH STOP KINDLY COMMUNICATE MAHARAJA'S ORDERS EXTENDING PERIOD BY ONE YEAR AND TWO RESPECTIVELY.

-- CHISEC --

- -

Bangalore,
12th Feby. 1942.

From

The Chief Secretary to the Govt. of Mysore.

Superintendent,
Chief Secretariat.

Continuance of 3358/D (11) Limitation of the term of the Judges of High Court

General and Revenue Secretariat | File No. | of 194 . | [App. F. III—2

Serial No.

20) ... under his existing orders the term of his office expires on 14.2.42.

Submit for orders as to whether orders may be issued and the file be submitted to H.E. for orders.

Dom 21 12/2) The Notification may issue in anticipation of His Highness' sanction as the term of the appointment of the two temporary Judges expires on 14.2.42.

S Law Secretary 3 12/2/42

22) dated 12th Feb. 42
Telegram sent to the Dewan at Bhopal requesting him to obtain the orders of H.H. for extending the period of appointment of the two temporary Judges by one year

Extract from telegram dated the 13th Feb. from the Dewan at Bhopal:-

yOUR TELEGRAM TWELFTH. ORDERS MAY BE ISSUED EXTENDING TERM OF TEMPORARY JUDGES.

Submit with a draft
GRV 14/2 Chief Secy. M.C. 14.2.42

23) For approval before issue
Dewan 14/2

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

Continuance of the appointment of Temporary Judges of the High Court

File No. 133 of 1941 | General and Revenue Secretariat

Serial No. H. Cons 2375

Ref:- Financial Secy's Opinion dt 2.1.42 —
Draft and fair Note.

16/2/42

FEB 18 1942
... 8193 —

DEWAN'S OFFICE
19 FEB. 1942
No. 7150

To
The Registrar High Court
The Comptroller & Gen thereafter to
HD p. 3246-7 dt 14. 2. 42.

Sanctions the Continuance of the appointment of the two additional Judges of the High Court for a period of 1 year from 15-2-1942 along with the temporary staff.

SECY. LAW DEPT. 1515 — 18 FEB. 1942 — GOVT OF MYSORE

Resubd with D.F.N

CAM 17/2 Bm — 24) Law Secretary 18/2/42
D. F. N. submitted
Minister for Law — His observations are thus
High Court is drawing proposals. — 18/2/42
Dewan — 25) 19/2 — 18/2/42
20/2

14

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Extension of the term of appointment of the two temporary Judges of the High Court fo a further period of one year from the 15th February 1942.

Order.

32)

27/2/42

Chief Sec.?

28/2/42

3358

C 668.

General and Revenue

Secretariat.

SUBJECT:—

Extension of the term of appointment of the two temporary Judges of the High Court for a further period of one year from the 15th February 1942.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders ~~before/after issue of orders~~. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

M. S. 1/3

Chief Secretary to Government.

Through the Secretary to Government,

.....~~Law~~.....Department.

Minister for Finance and Revenue. KC 13.3.42

Minister for Law. 3.3.42

4941 / 14.3.42

Minister for Education. 15.3.42

5806 / 11.3.42

Minister for Local Self-Govt. and Public Health. 11.3.42

~~Fin. Sec.~~ Law Secy. (with compliments) 18/3

NOTE.—Contn. sheet

WD 04199—GPB—500—27-9-41

3 19/3/42 19.3.4

2158 Continuance of the term of appointment of the temporary Judges of the High Court

(16)

General and Revenue Secretariat | C to File No. 133 of 1941. | [App. F. III-2

Serial No.

(33) The file is resubmitted with reference to the Note to the Council Resolution dt 10.2.1942 on the subject.

Flag B

(34) Kind reference is invited to the Minute of the L.G.G. Minister extracts of which have been typed on pages 7 and 8 of the Notes.

Flag A

(35) It is for orders as to whether any further reference has to be made to the High Court in the matter in pursuance of Note to the Council Resolution dt 10.2.1942.

Subd CPSO 21/3

B.

[Contains a sealed cover].

(36) Law Secretary) 3 23/3/42

(37) The High Court may be consulted on the question of dealing with the arrears expeditiously.

Dewan) Hm 2 23/3/42

3 23/3/42

(38) A draft may be put up requesting the C.J. to examine the matter and adopt any arrangements calculated

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

Additional Judges of the High Court

333

File No.	of 194 .	General and Revenue Secretariat
		Serial No.

to increase the proposals and obviate the need for further extending the terms of the additional judges

DLH
26/3/42

Hm
2
27/3/42

(3) Put up a draft as noted above
3
27/3

(4) Submit with a draft
CSM 29/3 (It is assumed that the D.O. letter to the Chief Justice will issue under the signature of the Dewan. On this basis the draft has been put up)

~~Draft is approved~~
Draft submitted
Dewan)

Hm
1/4/42

Hm
2/4/42

3
2/4/42

DEWAN'S OFFICE
1 APR 1942
8525

(Letter No. 1289 dt 2/4/42 to the Chief Justice issued from Dewan's Office)

Send the press Copy of the letter issued from ~~Dewan's Office~~

CSM
4/4

DEWAN'S MINUTE.

FILE No. 192

DEW... OFFICE
NO. S.M.-215

Camp Mysore, 13th April 1942.

I attach the Chief Justice's letter of April 6 explaining the necessity for the additional judges of the High Court, together with a copy of my reply. The papers, with the connected file, may be circulated to the Ministers.

13/4/42

Law Secretary.) for favour of circulation
Chief Secy
M/C)

14.4.42

14/4/42

14/4

Circulated to

Minister for Finance and Revenue. 16-4-42

Minister for Law. 15/4

Minister for Education. 16.4.42

Minister for L.S.G. & Public Health. I shall speak to the Dewan
16.6.42

16/4

Dewan) 24/4

Orders have already been passed extending the term of the Additional judges by one year. There is nothing more to be said

6246 pdw

Letter of the chief justice, High Court of Nyasa, re. the disposal of cases in the High Court. 607/c

General and Revenue Secretariat | File No. of 194 . — [App. F. III—2

Serial No.

no. beyond obtaining any further particulars desired by the Ministers.

This was explained at the ICL meeting yesterday

DLLE
22/4/42

Submitted for orders whether the papers may be be filed after perusal by the Minister for L.S.G.&P.H.

13/5/42

13 MAY 19[illegible] GOVT. OF NYSA

OFFICE OF THE MINISTER FOR L. S. G. & P. H.
Date 14.5.1942
No. 7157

For perusal
14/5

(Minister L.S.G.)

A.G.
16.5.42

17/5

The papers will be picked up from Pvt. Br. for perusal.

SECY. [illegible] SEPT. 19 MAY 1942 GOVT. [illegible]

19/5 (Law Secy.)

Pvt. Br.)

CWS
19-5-42

Mag. Gr. Delhi

3
19/5/42

Minister
19/5

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—28-10-41

B

3358 41

R. O. C. No. 752/41-42
~~D. Dis.~~

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 16th December *1941.*

FROM

T. SHAMIENGAR, ESQ., B.A., B.L.,
Registrar, High Court of Mysore.

TO

H.V. Narayana Rao, Esq., B.A.,LL.B.,
Secretary to the Government of Mysore,
Law Department, Bangalore.

SIR,

I am directed to refer to Government Order P.5477-8/Cts.136-39-3 of 10 February 1940, sanctioning the appointment of two temporary Judges of the High Court for two years from 15 February 1940. After watching the reduction of arrears in the High Court while the two temporary Judges have been at work the Chief Justice is of opinion that it is necessary that they should be retained for a further period. These Judges were appointed primarily to deal with an accumulation of Second Appeals. On 15 February 1940 there were 977 Second Appeals pending. Although in consequence of inspection work and the absence of Mr. Justice Nagesvara Iyer on other duty and leave the High Court was not at full strength during part of the remainder of the official year 1939-40, which included the annual vacation of two months, the number of Second Appeals disposed of in that period was 120; but as, including the usual influx after the vacation, 146 new Second Appeals came in, the number pending on 30 June 1940 was 1003. At the end of November 1941, that is after fourteen working months, the number had been reduced to 736, although 508 new appeals had come in. Considerable progress had therefore been made in clearing off arrears, though perhaps not so much as had been hoped. The criminal work of the Court during the period had been kept up-to-date -- indeed at the end of the year 1940-41 it was reduced to a minimum unlikely to be reached again -- and so had civil revision work and miscellaneous appeals; and 193 First or Regular Appeals had been disposed of.

On

On 30 November 1941 the civil work awaiting disposal in the High Court was

287 Regular Appeals

736 Second Appeals

22 Miscellaneous Appeals

and 115 Revision Petitions.

If work comes in during the next two years as it has in the last two years, the additional number of Regular and Second Appeals received will be 323 and 791 respectively, i.e. there will be for disposal in the next two years 610 Regular Appeals and 1527 Second Appeals. It would be quite impossible for 4 Judges to deal with that amount of work in addition to the other civil work and the criminal work of the Court without giving up all hope indeed of any considerable reduction of arrears and without danger of a further accumulation of arrears.

It must be recognized that in the recent years there has been a very considerable increase in the work of the High Court. In the last two years the average number of First or Regular Appeals from original decisions of District Judges and Subordinate Judges -- which is the heaviest kind of civil work -- has been 161. In the five preceding years, 1934-35 to 1938-39, it was 125; in the five years 1929-30 to 1933-34 it was only 76. Of Second Appeals received the average for the last 10 years was 401, though for the preceding five years it was only 225. There has been some decrease in Second Appeals in the last two years compared with the exceptional flood in the years 1936-37 and 1937-38; but in the last 2 years there has been a marked increase in Regular Appeals to counterbalance it. It may be added that in proportion to population the number of appeals filed in the High Court of Mysore is considerably larger than the number filed in the High Court at Madras.

In

In the opinion of the Chief Justice for the next two years at least from 15 February 1942 the Court will require 6 Judges. At the end of that period the position ought to be better than now, and it may be possible then to reduce the number of Judges again to 4. But 6 Judges is not a large number for the High Court of a State so important as Mysore and particularly for a State in which commerce and industry are developing. Indeed, in order that progress in those ways may not be endangered, it is essential that the High Court as well as the Courts subordinate to it should be of such strength that they can do their work with reasonable promptness. Though it may be said, speaking generally, that work in the other Courts is not far from being up-to-date, that cannot yet be said about the High Court. And that work in the High Court, which ought not only to enforce promptness in Courts subordinate to it but also to set an example in the matter, should be in arrears is very undesirable.

In the circumstances the Chief Justice hopes that the Government will agree with him that it is clearly necessary to retain the two temporary Judges of the High Court for a further period of two years. I am to request therefore that the Government will be pleased to extend their appointments for two years from 15 February 1942 and also to sanction the retention of the additional staff provided for them in accordance with the Government Order of 10 February 1940 mentioned above.

I have the honour to be,
Sir,
Your most obedient servant,

T. Shamiengar
REGISTRAR.

PS.
KSR.

G. R. S. App. F VI—G 2]

SUBJECT

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue .....193 .

Signed by .....

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

√(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section. Ch

File No. / 33 - 41 /

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore

Read—

G. O. No P 5477-8/ Ch 136-39-3 Dt 10. 2. 1940 sanctioning the appointment of two additional Judges to the High Court as a temporary measure for a period of two years ~~under thereon No.~~ from 15-2-1940 ~~Dist~~ along ~~Recruitment~~ with certain temporary staff ~~sanctioned~~

(2) Letter No RoC 752/41-42 Dt 16. 12. 1941 from the Registrar High Court

Of Mysore Recommending the
Continuance of the appointment
of the two temporary additional
Judges of the High Court
along with the temporary
Staff Sanctioned in G.O.
Dy 10.2.1940 Read above
for a further period
of two years from 15.2.1942

Order No. P3746-7 Dy 14th July '42

Your are pleased to
Sanction the Continuance
of the appointments of
the two additional Judges
of the High Court
for a further period
of one year from 15-2-1942
~~along with~~ as also the temporary
Staff referred to above.

List of Enclosure

Copied by

Examined by

14/7

Chief Secretary to Govt

To

The Registrar High Court
The Comptroller to Govt Mysore F.D.

WD 0564—GPB—22,500—9-1-39

1289

2nd April 1942.

Dear Sir D'Arcy,

I am writing to invite reference to Government Order No.P.3746-7/Cts.133-41-2 dated the 14th February 1942 sanctioning the extension of the term of appointment of the two temporary Judges of the High Court for a further period of one year from the 15th February 1942 and to the Registrar's letter No.ROC.752/41-42 dated the 16th December 1941 stating, among other matters, that considerable progress had been made in clearing off arrears of work in the High Court though, perhaps, not so much as had been hoped.

I shall esteem it a favour if you can kindly examine the matter again and adopt any arrangements which may be calculated to increase disposals, particularly of second Appeals and obviate the need for a further extension of the term of the Additional Judges.

Yours Sincerely

Sd. N. Madhavarao

Sir D'Arcy Reilly,
Chief Justice,
High Court of Mysore,
BANGALORE.

Submitted after issue

Issued separately

12/4/42

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

My dear Sir D'Arcy (Reilly)

I am Writing to invite
reference to G.O. No
P 3746-7 | Cts 133-41-2
dt/ 14. 2. 1942 sanctioning
the extension of the
term of appointment
of the two Temporary
Judges of the High Court
for a period of one year
from the 15th February 1942
and to the Registrars
letter No RoC 752/41-42
dt/ 16. 12. 1941 stating,
among other matters,
that considerable progress
had been made in
clearing off arrears
although perhaps, not so
much as had been
hoped.

P.T.O

WD 03603—GPB—15,000—8-7-35

I shall
esteem it a favour
if You can kindly
examine the matter again
and adopt any
arrangements which may be
~~in Your Opinion~~ are calculated
~~to increase the dispatch~~ to increase dispatch, particularly
~~of pending cases on the~~ of Second Appeals
~~files of the Judges of the High Court~~
and obviate the need
for a further extending
the term of the Additional
Judges.

Yours sincerely.

HMM
1/4/42

Sir D'Arcy Reilley Kt. I.C.S
Chief Justice.

6 April 1942.

Dear Mr. Madhava Rau,

In your letter 1289 of 2 April you have asked me to consider the question whether arrangements could be made to dispose of more work in the High Court and especially of more Second Appeals in order to make it unnecessary to extend the term of the two temporary Judges of the Court (the 5th and 6th Judges) beyond 15 February 1943. I have been thinking over the matter, and I have examined the figures again.

As explained in the Registrar's letter R.O.C.752/41-42 of 16 December 1941, although the two temporary Judges were added to the Court on 15 February 1940, in consequence of leave, special duty and inspection work for the rest of that official year, which included the vacation of two months, the full number of six Judges were not sitting regularly. We began to feel the full benefit of having six Judges in the Court at the opening of the next official year, when on 1 July 1940 there were 1003 Second Appeals pending. From that date to the end of March 1942, that is in 7 quarters, which included the long vacation of one year, 290 First Appeals and 898 Second Appeals were disposed of besides all the other work of the Court, which in that time was brought really up to date. I may, I hope, be allowed to ask you to consider whether those numbers of appeals do not represent a large amount of work.

I have been looking at the statistics of the Madras High Court, where the appellate work is similar in character to that of our Court. I find that on the average of the last two years, for which their statistics are available, 1939 and 1940, the Judges of that Court disposed of 661 First Appeals and 1332 Second Appeals a year. But, as Second Appeals are heard by single Judges in that Court, for the purpose of comparison we must take it that, if Second Appeals had

been heard there by Benches of two Judges as in our Court, the average number disposed of in a year would have been 666. In 1939 and 1940 there were 14 Judges in the Madras High Court: the number has now been increased to 16 on the assumption, I presume, that the 14 Judges could not do more work than they had been doing. Of the 14 Judges 2 were working on the Original Side of the Court, leaving 12 for the Appellate Side. On the Appellate Side there was other work to be done in addition to First and Second Appeals, as there is in our Court, and generally of the same proportion to the First and Second Appeals. If we confine our attention for the moment to First and Second Appeals, we shall find on the figures I have mentioned that in Madras each Bench of two Judges would dispose in a year of 110 First Appeals and 110 Second Appeals. On our own figures for the last 7 quarters, making the proper allowance for vacations, each Bench of two Judges in our Court would dispose of 52 First Appeals and 154 Second Appeals---that is considerably fewer First Appeals and considerably more Second Appeals. But when making that comparison there are several things, which we must remember. In the High Court of Mysore every appeal, civil or criminal, must be heard by a Bench of at least two Judges; in Madras the great majority of criminal appeals and many miscellaneous civil appeals besides the Second Appeals, which I have already discounted, are heard by single Judges. And in Mysore it must be remembered that there is a right of Second Appeal not only on questions of law, as in Britsh India, but on questions of fact, on which the lower Courts have disagreed. The result of that is that a considerable proportion of our Second Appeals involve questions of fact, and on an average a Second Appeal in Mysore takes much longer to hear than in Madras. And in Mysore 20 subordinate Courts or more are inspected each year by a Judge of the High Court. That is important work, which undoubtedly has a good effect; but altogether it takes up a considerable amount of time. In Madras such inspection work has not been done by any High Court Judge for nearly thirty years. When those differences between the two Courts are remembered. T

think it will be realised that each Judge of the High Court here does more, not less, work than a Judge of the Madras High Court. And the work here is not less important, difficult or onerous than the work in Madras.

Perhaps it will be of some interest to explain the way in which I have been arranging the work in this Court. On the First Bench one of the junior Judges sits with me. We take the Criminal Appeals and the First Appeals, which are generally the heaviest and most important appeals. I think it right that the Chief Justice should be a member of the Bench, which hears cases of those kinds. The First Bench also hears Miscellaneous Civl Appeals, which include cases about company law, insolvency, workmen's compensation and election disputes, the last being many in number since the first general election was held under the present Constitution. The two other Benches devote their time mainly to Second Appeals. But one of them has to be split up at least on one day in each week, and sometimes more often, in order that the two Judges may sit singly to hear civil and criminal revision petitions, work which it is important should be kept up to date, as it so often affects the progress of cases in lower Courts. And apart from revision work there are other reasons why two Benches cannot sit continuously to hear Second Appeals. If a Judge is absent on privilege or casual leave, one of the Benches cannot sit. And the same thing happens is the result when a Judge is lent to the Government for special duty, as happened for more than a month in the past year, or a Judge is away on inspection duty. Nevertheless as much time has been given to Second Appeals as possible.

I am not sure whether your letter is intended to suggest that more Second Appeals might be heard, if on the average less time were spent on hearing such an appeal. I am aware that executive officers sometimes have that idea. And I have never yet met a Judge who did not think that arguments from the Bar were sometimes unnecessarily long. Many Judges perhaps would substitute "often" for "sometimes" in expressing their opinions on that subject. But we sit not to hear the arguments, which we may

think necessary in a case, but to hear those which the parties or their Counsel may wish to put before us. Two of the most brilliant Judges I have known used to get through a great deal of work by studying the cases they were to hear before they went to Court and then questioning Counsel only on the points which they thought required argument. But not unnaturally the work of those Judges did not give satisfaction to the members of the Bar. It has been my desire that no party nor Counsel shall leave the High Court at the end of his case without feeling that it has been fully heard. And for a similar reasom I have the whole of the record of each case read out in Court except such parts of it as the Counsel concerned agree do not affect the questions still in issue. It is important that everyone who comes into Court should know that cases are fully heard by us. And it must be remembered that there is no tribunal of appeal above us as there is above the High Courts of British India. I should not think it right to suggest to my learned brothers that they should curtail the hearing of cases in order to get through more of them. And in justice to members of the Bar it should not be forgotten that in many large fields the law in Mysore is similar to that in Britsh India, where in these days there are many High Courts and Chief Courts pouring out streams of decisions, which Counsel may legitimately quote to us and to which we must listen with respect. Whether it is necessary to refer in his judgment to each case cited is a question for each Judge to decide for himself. Personally in a Court free from external authority I prefer, when not bound by rulings of our own Court, to discuss principles rather than cases of other Courts, though such cases are very often instructive and illuminating; but I should never attempt to dictate to my learned brothers in such a matter.

There is one mechanical way in which it could be arranged that the same number of Judges as we have now in this Court would be able to dispose of a larger number of Second Appeals than at present. If the High Court Act were amended in that respect, we might copy the British Indian way of having Second Appeals heard by Judges sitting singly. I have

discussed this on several occasions, and I am still of opinion that it would be a serious mistake. I am assured by those who ought to know that in British India it does not give satisfaction. And in principle it is wrong I think that the powers of a High Court in appeal should be exercised by a single Judge. In England it will be remembered that only a small class of unimportant appeals are heard by less than three Judges. And in Mysore there is the added reason that this is the final Court of appeal: there is no tribunal such as the Privy Council above it. In my opinion it is right, as the law provides, that every appeal in the High Court should be heard by a Bench of at least two Judges, though that must not be forgotten when considering how many Judges are needed for the work of the Court. Another way in which the same number of High Court Judges might be enabled to hear more Second Appeals would be to restrict such appeals, as in British India, to questions of law. But that too I think would be a grave mistake. In my opinion the law in Mysore in that respect is much better than in British India, where the High Court is bound even by a clearly mistaken interference with the trial Court's finding of fact by the lower Appellate Judge, if there is any evidence to support that Judge's view of the matter. I have often heard both Judges and others in British India expressing the wish that the law there in regard to the scope of Second Appeals were what it is in Mysore. I hope that there will be no interference with either of the great advantages which people in Mysore have over those in British India in regard to Second Appeals.

But I am sorry to think that there has been any dissatisfaction with the way in which the present Judges of the High Court have been doing their work, if that is implied in your letter. You refer to the remark made in the Registrar's letter of 16 December 1941 that the progress made in clearing off arrears of Second Appeals since the two temporary Judges were added to the High Court in February 1940 has not been so great as had been hoped. The Registrar sent that letter under my instructions. What was in my mind was that, when originally asking for the two temporary Judges in December 1939, I had hoped that the incoming flood of Second Appeals would have abated more by December 1941 than eventually happened. In the result the

number of Second Appeals pending is more than I expected, and ,though the Court is overtaking its arrears, that takes longer than I hoped. When I asked for the two additional Judges,it was said in the Registrar's letter R.O.C.668/39-40 of 8 December 1939 that the 920 Second Appeals then pending were "enough to occupy a Bench of two Judges for two years at least!" Experience has shown that that was an under-statement. But on consideration I think you will find that there is no reason to be discontented with the work of the High Court, and I hope you will come to the conclusion that it would be unwise to reduce the number of Judges below six until the whole work of the Court is up-to-date, even if that takes much longer than was expected. How long that takes will depend more upon the amount of work coming in than upon anything else. That there has been a great increase in the work coming into the Court in recent years must be recognised. As pointed out in the Registrar's letter of 16 December last, the average number of First Appeals filed in the last two years has been 161: in the previous 5 years it was 125: in the 5 years before that it was only 76. I find that in consequence of a mistake either in calculating or in copying the figures for Second Appeals were not given correctly in that letter, when stating the increase in the numbers filed. The average number of Second Appeals filed in the last 5 years has been 464: in the previous 5 years it was 242: in the 10 years before that it was only 179. It will be seen that in First and Second Appeals, the main civil work of the Court, there has been a very remarkable increase. It is useless to deplore the increase, if indeed there is any reason to deplore it, which I do not think is so. The only proper course is to provide a sufficient number of Judges to deal with it. Some of the increase, as I have explained before, has been due to a temporary cause, the clearing out of the pools of stagnant cases in lower Courts, which led to a flood of appeals, and especially Second Appeals, in the High Court. Some of the increase may be due to more permanent and healthy causes. The extent of the latter part it is not very easy to estimate at present. But I hope that we can always look forward to the Government providing us with the means of disposing of it

properly, though it is of course the duty of the Government to see that the means provided are not extravagant. "Properly" in that connection includes "promptly". To insist on suits and appeals being disposed of promptly is not a mere fad. It is necessary in justice to litigants and for the prosperity of the State. When plaintiffs and appellants have to pay their Court-fees, as in Mysore, on filing their cases, it is obviously unfair to keep them waiting for years before the cases are decided. And we cannot hope for the full development of commerce in Mysore, for which we wish, unless foreigners and others outside the State feel assured that they can get redress, when necessary, in His Highness' Courts without delay.

It may perhaps be useful to look back a little into the history of this Court in recent years. Eight or nine years ago a convicted person appealing to the High Court had to wait on the average for 6 months before his case was heard. The majority of criminal revision petitions remained in the Court for more than a year before disposal. The average duration of a criminal appeal in the High Court is now a month; in two of the last three years there has been no criminal appeal pending at the end of the year, and at the end of the last two years there has been no criminal revision petition so old as a month. It may be said with confidence that in no other High Court in India is criminal work disposed of so promptly. At the end of last year the number of civil revision petitions pending was about one-fifth of the number, which used to be pending 10 years ago, and they were all of recent date instead of including petitions which had been in the Court for years. Thedisposal of Miscellaneous Civil Appeals also is up to date. I doubt whether any other High Court in India is so prompt in disposing of those classes of work, which often affect the progress of cases in lower Courts. A decade ago First Appeals pending in the Court regularly included a sediment of troublesome old appeals, which had been on the file for periods up to 8 or 9 years. There is now no First Appeal in the Court so old as 2 years. We must not be satisfied until there is no case in the Court so old as one year. But even in regard to First Appeals we may say that the position in this Court is much better

than in some High Courts in British India---for instance the Madras High Court---and in all those Courts except one I believe there are now Additional Judges at work. In Second Appeals we are steadily overtaking our arrears. The present position is that the original Courts of Mysore lead India in the promptness of their work, and the High Court does so in important departments of its work. If only we persist for a few years more with a sufficient number of Judges to bring all the rest of the work of the High Court up to date, so that no case of any kind awaits disposal for so long as a year, then we shall be able to say that our Courts are doing their work proprely, and Mysore will have the credit of setting a valuable example to the whole of India. ~~&~~ Rs36,000 a year is not a high price---and that is the cost of two Additional Judges of the High Court--- to pay for reaching that goal, towards which so much progress has already been made. And it should not be forgotten, I think, that in Mysore the civil Courts as a whole bring a large profit to the State. On the question whether any profit should be made by the State out of Court-fees paid by litigants there may be different opinions; but I suppose no one would suggest that a profit should be made by failing to provide a sufficient number of Judges to do the work of the Courts with reasonable promptness.

And I may perhaps point out that ,although it would not be right to appoint to the High Court more Judges than its work requires, six High Court Judges can hardly be regarded as a large number for a State of the population and importance of Mysore. In Scotland, the population of which is only 2/3 of that of Mysore, there are 8 appellate Judges in the Court of Session, which is the Court corresponding to the High Court here, and I believe they hear no second appeals. Moreover the cost of the High Court of Mysore is remarkably small. The two Additional Judges together cost only ~~¾~~ three-quarters of the cost of one puisne Judge of a High Court in British India. And the whole cost of this Court as at present constituted is no more than that of 2½ puisne Judges in British India.

There is another aspect of the matter, to which Ishould like to refer briefly. We may expect that in a very few years every Judge in India will

be an Indian. The Judges working in Mysore today, both in the lower Courts and in the High Court, are almost exclusively Indian. If they can show that they can do their work as fairly as the mixed Courts of British India and more efficiently and promptly---and I have no doubt they can prove that, if the remaining blot on our Courts, the arrears in the High Court, is removed---they will do a great service to India, a service similar to that which has been done by the administrative officers of Mysore.

I hope you will forgive me for troubling you with such a long letter on this subject. I am anxious that you should be under no wrong impression about the work of the High Court or the Judges of the Court. I can assure you, if any assurance is needed, that in the puisne Judges of the Court you have a band of hardworking and devoted Judges, of whom Mysore should be proud. And I am anxious also that the efforts to make the Courts of Mysore thoroughly efficient, in which so much progress has been made, should not be defeated of completion by any failure to provide the High Court with whatever number of Judges may be required to bring and keep its work up to date. If work in the High Court is not prompt, it will not be long before work in the lower Courts again becomes dilatory.

Yours sincerely

D'Arcy Kerr

Rajamantrapravina
N.Madhava Rau Esq.
Dewan of Mysore.

Mysore,
12th April 1942.

No. C. 293.

My dear Sir D'Arcy,

I write to thank you for your D.O. letter of the 6th instant explaining clearly and in detail the necessity for the additional judges of the High Court. We appreciate the steps taken by you to bring the work of the courts to the present satisfactory state and we are also anxious that this work of all round improvement should receive no set back. I can assure you of the support of Government in all measures needed to further the object which we have all in view and which to a very gratifying extent has already been achieved.

Yours Sincerely,
(Sd) N. Madhava Rau.

Sir D'Arcy Reilly,
Chief Justice,
High Court of Mysore,
BANGALORE.